

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4392 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHSINH BHERUSINH RAJPUT

Versus

STATE OF GUJARAT

Appearance:

MR RS SANJANWALA for Petitioners

MR BY MANKAD, APP for Respondent No. 1 & 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 25/08/1999

ORAL JUDGEMENT

Rule. Mr. BY Mankad, learned APP appears and waives service of Rule for the respondents. With the consent of the parties, matter is taken up for final hearing today.

This petition is under Sec.482 of the Code of Criminal Procedure, 1973 for quashing and setting aside the FIR being CR.No. Atul-III 81 of 1998 of Atul Police

Station, Atul, Dist. Valsad, wherein it is alleged that offence under Sec.70(A) of Bombay Prohibition Act has been committed. It is contended in the FIR that the Tata Tempo No.407 bearing Registration No.GJ-5-U-1488 had started from Daman and was proceeding towards Maharashtra. The said truck was intercepted by LCB staff including Police Sub Inspector of LCB and after investigating the present petitioner nos. 1 & 2, material transported therein was seized. As per the allegations made against petitioner nos. 1 & 2, the material transported being Ammonium Chloride and same is prohibited article and transportation of such material from within the territory of State of Gujarat is an offence punishable under Sec.70(A) of the Bombay Prohibition Act.

It has been argued by Mr. Sanjanwala, learned counsel appearing for the petitioners that in identical type of cases, this Court, by exercising its powers under sec. 482 of Cr.P.Code, has quashed the FIR or criminal proceedings initiated by the State pursuant to the said FIR. The learned counsel has annexed certain judgments and orders annexed by him at Annex.H to the petition. Mr. Sanjanwala has taken this Court through all those judgments and has mainly relied upon the decision of this Court (Coram : Miss R.M.Doshit, J) in Misc. Cri. Application NO. 4763 of 1998 delivered on 27.11.1998, wherein this Court has quashed the FIR lodged for the offence of transportation of rotten gur from Madhya Pradesh to Uttar Pradesh. The facts of the said case are similar to the facts of the present case and principle enunciated in the said decision squarely applies to the facts of the present case and for the reasons stated therein, in the instant case, FIR requires to be quashed and set aside.

For the reasons aforesaid, FIR being CR. No. Atul-III 81 of 1998 of Atul Police Station, Atul, District: Valsad, is hereby quashed and set aside. It is, however, clarified that if any criminal proceedings are initiated pursuant to this FIR before the Court concerned, the same shall also stand quashed. As the muddamal seized and truck attached have already been handed over too the person concerned pending hearing and disposal of this application, no further orders are required to be passed in that regard.

Rule is made absolute accordingly. No costs.
Direct Service is permitted.

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